

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 775**

**Introduced by Assembly Member Yee**

February 18, 2005

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An act to add Section 36 to the Business and Professions Code, to add Part 8 (commencing with Section 296) to Division 2 of the Family Code, to add Sections 27 and 68564.5 to the Government Code, to add Section 29 to the Health and Safety Code, to add Section 49 to the Insurance Code, to add Section 30 to the Labor Code, and to add Section 26.5 to the Welfare and Institutions Code, relating to interpreters.

LEGISLATIVE COUNSEL'S DIGEST

AB 775, as amended, Yee. Interpreters: prohibition on use of children.

Existing law requires, or, in some instances, permits, the use of translators or interpreters by various agencies, organizations, or entities for non-English-speaking or deaf persons in connection with various functions.

This bill would prohibit any state or local governmental agency, or any public or private agency, organization, entity, or program that receives state funding, from using any child, or permitting any child to be used, as an interpreter, as defined, in any hospital, clinic, or physician office in the context of diagnosis ~~and~~ or treatment, except as specified. The bill would require each such agency, organization, entity, or program that receives state funding to have in place, and available for inspection, an established procedure for providing competent interpretation services that does not involve the use of children, as defined, in this manner.

This bill would also provide that a violation of these provisions by a public agency, with certain exceptions, or a private agency, organization, entity, or program that receives state funding may result in the loss of state funding to, or the cancellation of state contracts with, that agency, organization, entity, or program, and would establish requirements for the reinstatement of that funding.

The bill would provide that this prohibition is not applicable to a school district, a county board of education, a community college, the office of a county superintendent of schools, or a community college district.

Existing law specifies the various duties of the Judicial Council, including the adoption of rules of court and the administration of a program for the provision of court interpreter services in court proceedings.

This bill would state the findings and declarations of the Legislature with respect to the use of children as interpreters, and would require the Judicial Council to ensure that its court rules and the appointment of interpreters are consistent with those findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) In cases in which parents are monolingual and non-English
- 4 speakers, or deaf, it has become all too common for service
- 5 providers to use children as interpreters for their parents.
- 6 Nongovernmental agencies, state agencies, hospitals, clinics, and
- 7 law enforcement agencies have all used children as interpreters,
- 8 often because the use of children provides an immediate solution
- 9 to communication problems with the children's
- 10 non-English-speaking or deaf parents.
- 11 (b) Children should not be exposed to discussions and
- 12 information that is often beyond their comprehension, or to
- 13 discussions and information that are inappropriate for, or
- 14 unseemly to, children.
- 15 (c) The involvement of children as interpreters is difficult,
- 16 both for the children and for the associated adults, and may lead
- 17 to an agency, organization, entity, or program being misinformed

1 as a result of a child's ignorance or shame. The involvement of  
2 children as interpreters can also be traumatizing to the children.

3 (d) The use of children as interpreters can interfere with their  
4 attendance at school.

5 (e) The use of children as interpreters in hospitals, clinics, and  
6 physician offices in the context of diagnosis~~and~~ or treatment can  
7 lead to misdiagnosis, incorrect medication and drug use, and  
8 possibly fatal consequences.

9 (f) It is inappropriate to use children as interpreters in any state  
10 or state-supported context and it is particularly egregious and can  
11 be life-threatening to use children in the context of diagnosis~~and~~  
12 or treatment as described in subdivision (e).

13 (g) It is the intent of the Legislature to prohibit, except in  
14 specified circumstances, the use of children as interpreters in  
15 hospitals, clinics, and physician offices in the context of  
16 diagnosis~~and~~ or treatment by any local or state governmental  
17 agency, or any public or private agency, organization, entity, or  
18 program that receives state funding, with certain exceptions.

19 SEC. 2. Section 36 is added to the Business and Professions  
20 Code, to read:

21 36. (a) Subject to subdivision (e), a state or local  
22 governmental agency, or a public or private agency, organization,  
23 entity, or program that receives state funding, shall not use any  
24 child, or permit any child to be used, as an interpreter in any  
25 hospital, clinic, or physician office in the context of diagnosis  
26 ~~and~~ or treatment, and shall have in place, and available for  
27 inspection, an established procedure for providing competent  
28 interpretation services that does not include the use of children in  
29 this manner.

30 (b) Subject to subdivision (e), a violation of this section by a  
31 public, except state, or private agency, organization, entity, or  
32 program that is supported by state funding may result in the loss  
33 of state funding to, or the cancellation of state contracts with, that  
34 agency, organization, entity, or program. However, no action  
35 may be taken until 90 days after the date the violation is reported,  
36 in order to give that agency, organization, entity, or program the  
37 opportunity to comply with this section.

38 (c) State funding or any contract terminated pursuant to  
39 subdivision (b) shall not be reinstated until the state agency

1 providing the state funding has determined that the agency,  
2 organization, entity, or program has done both of the following:

3 (1) Prohibited the use of children as interpreters in hospitals,  
4 clinics, and physician offices in the context of diagnosis~~and~~ or  
5 treatment.

6 (2) Established procedures to ensure that children will not be  
7 utilized as interpreters in hospitals, clinics, or physician offices in  
8 the context of diagnosis~~and~~ or treatment.

9 (d) The State Personnel Board may conduct investigations and  
10 take all reasonable actions to effectuate the purposes of this  
11 section with respect to state agencies.

12 (e) Nothing in this section shall prohibit an agency,  
13 organization, entity, or program from using, or permitting the use  
14 of, a child to interpret in any of the following situations:

15 (1) To help determine a limited-English-proficient person's  
16 primary language.

17 (2) To help ensure the receipt of language assistance.

18 (3) During routine and casual queries, including those  
19 involving office hours or directions, or other matters that do not  
20 involve diagnosis or treatment.

21 (4) During emergency situations affecting the immediate life,  
22 safety, health, or welfare of an individual when there are no other  
23 alternatives immediately available so long as a competent  
24 interpreter is provided as soon as possible.

25 (5) To assist with simple queries concerning the receipt of any  
26 public health benefit.

27 (f) For purposes of this section:

28 (1) "Child" means a person who is under the age of 15 years.

29 (2) "Established procedure for providing competent  
30 interpretation" means the provision of an in-person interpreter or  
31 bilingual staff member, or, at a minimum, a telephonic-based  
32 interpretation service or other interpretation resources that can be  
33 easily used by staff members to communicate effectively with  
34 limited-English-proficient or deaf persons. A state agency shall  
35 include a description of these procedures in its implementation  
36 plan submitted to the State Personnel Board pursuant to Section  
37 7299.4 of the Government Code.

38 (3) "Interpreter" means a person who orally, or by signing,  
39 translates from one language to another.

(g) This section is not applicable to a school district, county board of education, community college, the office of a county superintendent of schools, or a community college district.

SEC. 3. Part 8 (commencing with Section 296) is added to Division 2 of the Family Code, to read:

PART 8. INTERPRETERS

296. (a) Subject to subdivision (e), a state or local governmental agency, or a public or private agency, organization, entity, or program that receives state funding, shall not use any child, or permit any child to be used, as an interpreter in any hospital, clinic, or physician office in the context of diagnosis ~~and~~ or treatment, and shall have in place, and available for inspection, an established procedure for providing competent interpretation services that does not include the use of children in this manner.

(b) Subject to subdivision (e), a violation of this section by a public, except state, or private agency, organization, entity, or program that is supported by state funding may result in the loss of state funding to, or the cancellation of state contracts with, that agency, organization, entity, or program. However, no action may be taken until 90 days after the date the violation is reported, in order to give that agency, organization, entity, or program the opportunity to comply with this section.

(c) State funding or any contract terminated pursuant to subdivision (b) shall not be reinstated until the state agency providing the state funding has determined that the agency, organization, entity, or program has done both of the following:

(1) Prohibited the use of children as interpreters in hospitals, clinics, and physician offices in the context of diagnosis ~~and~~ or treatment.

(2) Established procedures to ensure that children will not be utilized as interpreters in hospitals, clinics, or physician offices in the context of diagnosis ~~and~~ or treatment.

(d) The State Personnel Board may conduct investigations and take all reasonable actions to effectuate the purposes of this section with respect to state agencies.

(e) Nothing in this section shall prohibit an agency, organization, entity, or program from using, or permitting the use of, a child to interpret in any of the following situations:

(1) To help determine a limited-English-proficient person's primary language.

(2) To help ensure the receipt of language assistance.

(3) During routine and casual queries, including those involving office hours or directions, or other matters that do not involve diagnosis or treatment.

(4) During emergency situations affecting the immediate life, safety, health, or welfare of an individual when there are no other alternatives immediately available so long as a competent interpreter is provided as soon as possible.

(5) To assist with simple queries concerning the receipt of any public health benefit.

(f) For purposes of this section:

(1) "Child" means a person who is under the age of 15 years.

(2) "Established procedure for providing competent interpretation" means the provision of an in-person interpreter or bilingual staff member, or, at a minimum, a telephonic-based interpretation service or other interpretation resources that can be easily used by staff members to communicate effectively with limited-English-proficient or deaf persons. A state agency shall include a description of these procedures in its implementation plan submitted to the State Personnel Board pursuant to Section 7299.4 of the Government Code.

(3) "Interpreter" means a person who orally, or by signing, translates from one language to another.

(g) This section is not applicable to a school district, county board of education, community college, the office of a county superintendent of schools, or a community college district.

SEC. 4. Section 27 is added to the Government Code, to read:

27. (a) Subject to subdivision (e), a state or local governmental agency, or a public or private agency, organization, entity, or program that receives state funding, shall not use any child, or permit any child to be used, as an interpreter in any hospital, clinic, or physician office in the context of diagnosis ~~and~~ or treatment, and shall have in place, and available for inspection, an established procedure for providing competent

1 interpretation services that does not include the use of children in  
2 this manner.

3 (b) Subject to subdivision (e), a violation of this section by a  
4 public, except state, or private agency, organization, entity, or  
5 program that is supported by state funding may result in the loss  
6 of state funding to, or the cancellation of state contracts with, that  
7 agency, organization, entity, or program. However, no action  
8 may be taken until 90 days after the date the violation is reported,  
9 in order to give that agency, organization, entity, or program the  
10 opportunity to comply with this section.

11 (c) State funding or any contract terminated pursuant to  
12 subdivision (b) shall not be reinstated until the state agency  
13 providing the state funding has determined that the agency,  
14 organization, entity, or program has done both of the following:

15 (1) Prohibited the use of children as interpreters in hospitals,  
16 clinics, and physician offices in the context of diagnosis~~and~~ or  
17 treatment.

18 (2) Established procedures to ensure that children will not be  
19 utilized as interpreters in hospitals, clinics, or physician offices in  
20 the context of diagnosis~~and~~ or treatment.

21 (d) The State Personnel Board may conduct investigations and  
22 take all reasonable actions to effectuate the purposes of this  
23 section with respect to state agencies.

24 (e) Nothing in this section shall prohibit an agency,  
25 organization, entity, or program from using, or permitting the use  
26 of, a child to interpret in any of the following situations:

27 (1) To help determine a limited-English-proficient person's  
28 primary language.

29 (2) To help ensure the receipt of language assistance.

30 (3) During routine and casual queries, including those  
31 involving office hours or directions, or other matters that do not  
32 involve diagnosis or treatment.

33 (4) During emergency situations affecting the immediate life,  
34 safety, health, or welfare of an individual when there are no other  
35 alternatives immediately available so long as a competent  
36 interpreter is provided as soon as possible.

37 (5) To assist with simple queries concerning the receipt of any  
38 public health benefit.

39 (f) For purposes of this section:

40 (1) "Child" means a person who is under the age of 15 years.

(2) “Established procedure for providing competent interpretation” means the provision of an in-person interpreter or bilingual staff member, or, at a minimum, a telephonic-based interpretation service or other interpretation resources that can be easily used by staff members to communicate effectively with limited-English-proficient or deaf persons. A state agency shall include a description of these procedures in its implementation plan submitted to the State Personnel Board pursuant to Section 7299.4.

(3) “Interpreter” means a person who orally, or by signing, translates from one language to another.

(g) This section is not applicable to a school district, county board of education, community college, the office of a county superintendent of schools, or a community college district.

SEC. 5. Section 68564.5 is added to the Government Code, to read:

68564.5. The Judicial Council shall ensure that the appointment of interpreters pursuant to, and the rules of court adopted by the Judicial Council to implement, this article are consistent with the findings and declarations set forth in Section 1 of the act that enacted this section during the 2005–06 Regular Session concerning the intent of the Legislature to prohibit the use of children as interpreters in hospitals, clinics, and physician offices in the context of diagnosis ~~and~~ or treatment, except under specified circumstances. It is the intent of the Legislature that the prohibition against the use of children as interpreters in this manner shall not be applicable to a school district, county board of education, community college, the office of a county superintendent of schools, or a community college district.

SEC. 6. Section 29 is added to the Health and Safety Code, to read:

29. (a) Subject to subdivision (e), a state or local governmental agency, or a public or private agency, organization, entity, or program that receives state funding, shall not use any child, or permit any child to be used, as an interpreter in any hospital, clinic, or physician office in the context of diagnosis ~~and~~ or treatment, and shall have in place, and available for inspection, an established procedure for providing competent interpretation services that does not include the use of children in this manner.

(b) Subject to subdivision (e), a violation of this section by a public, except state, or private agency, organization, entity, or program that is supported by state funding may result in the loss of state funding to, or the cancellation of state contracts with, that agency, organization, entity, or program. However, no action may be taken until 90 days after the date the violation is reported, in order to give that agency, organization, entity, or program the opportunity to comply with this section.

(c) State funding or any contract terminated pursuant to subdivision (b) shall not be reinstated until the state agency providing the state funding has determined that the agency, organization, entity, or program has done both of the following:

(1) Prohibited the use of children as interpreters in hospitals, clinics, and physician offices in the context of diagnosis~~and~~ or treatment.

(2) Established procedures to ensure that children will not be utilized as interpreters in hospitals, clinics, or physician offices in the context of diagnosis~~and~~ or treatment.

(d) The State Personnel Board may conduct investigations and take all reasonable actions to effectuate the purposes of this section with respect to state agencies.

(e) Nothing in this section shall prohibit an agency, organization, entity, or program from using, or permitting the use of, a child to interpret in any of the following situations:

(1) To help determine a limited-English-proficient person's primary language.

(2) To help ensure the receipt of language assistance.

(3) During routine and casual queries, including those involving office hours or directions, or other matters that do not involve diagnosis or treatment.

(4) During emergency situations affecting the immediate life, safety, health, or welfare of an individual when there are no other alternatives immediately available so long as a competent interpreter is provided as soon as possible.

(5) To assist with simple queries concerning the receipt of any public health benefit.

(f) For purposes of this section:

(1) "Child" means a person who is under the age of 15 years.

(2) "Established procedure for providing competent interpretation" means the provision of an in-person interpreter or

1 bilingual staff member, or, at a minimum, a telephonic-based  
2 interpretation service or other interpretation resources that can be  
3 easily used by staff members to communicate effectively with  
4 limited-English-proficient or deaf persons. A state agency shall  
5 include a description of these procedures in its implementation  
6 plan submitted to the State Personnel Board pursuant to Section  
7 7299.4 of the Government Code.

8 (3) “Interpreter” means a person who orally, or by signing,  
9 translates from one language to another.

10 (g) This section is not applicable to a school district, county  
11 board of education, community college, the office of a county  
12 superintendent of schools, or a community college district.

13 SEC. 7. Section 49 is added to the Insurance Code, to read:

14 49. (a) Subject to subdivision (e), a state or local  
15 governmental agency, or a public or private agency, organization,  
16 entity, or program that receives state funding, shall not use any  
17 child, or permit any child to be used, as an interpreter in any  
18 hospital, clinic, or physician office in the context of diagnosis  
19 ~~and~~ or treatment, and shall have in place, and available for  
20 inspection, an established procedure for providing competent  
21 interpretation services that does not include the use of children in  
22 this manner.

23 (b) Subject to subdivision (e), a violation of this section by a  
24 public, except state, or private agency, organization, entity, or  
25 program that is supported by state funding may result in the loss  
26 of state funding to, or the cancellation of state contracts with, that  
27 agency, organization, entity, or program. However, no action  
28 may be taken until 90 days after the date the violation is reported,  
29 in order to give that agency, organization, entity, or program the  
30 opportunity to comply with this section.

31 (c) State funding or any contract terminated pursuant to  
32 subdivision (b) shall not be reinstated until the state agency  
33 providing the state funding has determined that the agency,  
34 organization, entity, or program has done both of the following:

35 (1) Prohibited the use of children as interpreters in hospitals,  
36 clinics, and physician offices in the context of diagnosis ~~and~~ or  
37 treatment.

38 (2) Established procedures to ensure that children will not be  
39 utilized as interpreters in hospitals, clinics, or physician offices in  
40 the context of diagnosis ~~and~~ or treatment.

1 (d) The State Personnel Board may conduct investigations and  
2 take all reasonable actions to effectuate the purposes of this  
3 section with respect to state agencies.

4 (e) Nothing in this section shall prohibit an agency,  
5 organization, entity, or program from using, or permitting the use  
6 of, a child to interpret in any of the following situations:

7 (1) To help determine a limited-English-proficient person's  
8 primary language.

9 (2) To help ensure the receipt of language assistance.

10 (3) During routine and casual queries, including those  
11 involving office hours or directions, or other matters that do not  
12 involve diagnosis or treatment.

13 (4) During emergency situations affecting the immediate life,  
14 safety, health, or welfare of an individual when there are no other  
15 alternatives immediately available so long as a competent  
16 interpreter is provided as soon as possible.

17 (5) To assist with simple queries concerning the receipt of any  
18 public health benefit.

19 (f) For purposes of this section:

20 (1) "Child" means a person who is under the age of 15 years.

21 (2) "Established procedure for providing competent  
22 interpretation" means the provision of an in-person interpreter or  
23 bilingual staff member, or, at a minimum, a telephonic-based  
24 interpretation service or other interpretation resources that can be  
25 easily used by staff members to communicate effectively with  
26 limited-English-proficient or deaf persons. A state agency shall  
27 include a description of these procedures in its implementation  
28 plan submitted to the State Personnel Board pursuant to Section  
29 7299.4 of the Government Code.

30 (3) "Interpreter" means a person who orally, or by signing,  
31 translates from one language to another.

32 (g) This section is not applicable to a school district, county  
33 board of education, community college, the office of a county  
34 superintendent of schools, or a community college district.

35 SEC. 8. Section 30 is added to the Labor Code, to read:

36 30. (a) Subject to subdivision (e), a state or local  
37 governmental agency, or a public or private agency, organization,  
38 entity, or program that receives state funding, shall not use any  
39 child, or permit any child to be used, as an interpreter in any  
40 hospital, clinic, or physician office in the context of diagnosis

1 ~~and~~ or treatment, and shall have in place, and available for  
2 inspection, an established procedure for providing competent  
3 interpretation services that does not include the use of children in  
4 this manner.

5 (b) Subject to subdivision (e), a violation of this section by a  
6 public, except state, or private agency, organization, entity, or  
7 program that is supported by state funding may result in the loss  
8 of state funding to, or the cancellation of state contracts with, that  
9 agency, organization, entity, or program. However, no action  
10 may be taken until 90 days after the date the violation is reported,  
11 in order to give that agency, organization, entity, or program the  
12 opportunity to comply with this section.

13 (c) State funding or any contract terminated pursuant to  
14 subdivision (b) shall not be reinstated until the state agency  
15 providing the state funding has determined that the agency,  
16 organization, entity, or program has done both of the following:

17 (1) Prohibited the use of children as interpreters in hospitals,  
18 clinics, and physician offices in the context of diagnosis~~and~~ or  
19 treatment.

20 (2) Established procedures to ensure that children will not be  
21 utilized as interpreters in hospitals, clinics, or physician offices in  
22 the context of diagnosis~~and~~ or treatment.

23 (d) The State Personnel Board may conduct investigations and  
24 take all reasonable actions to effectuate the purposes of this  
25 section with respect to state agencies.

26 (e) Nothing in this section shall prohibit an agency,  
27 organization, entity, or program from using, or permitting the use  
28 of, a child to interpret in any of the following situations:

29 (1) To help determine a limited-English-proficient person's  
30 primary language.

31 (2) To help ensure the receipt of language assistance.

32 (3) During routine and casual queries, including those  
33 involving office hours or directions, or other matters that do not  
34 involve diagnosis or treatment.

35 (4) During emergency situations affecting the immediate life,  
36 safety, health, or welfare of an individual when there are no other  
37 alternatives immediately available so long as a competent  
38 interpreter is provided as soon as possible.

39 (5) To assist with simple queries concerning the receipt of any  
40 public health benefit.

(f) For purposes of this section:

(1) “Child” means a person who is under the age of 15 years.

(2) “Established procedure for providing competent interpretation” means the provision of an in-person interpreter or bilingual staff member, or, at a minimum, a telephonic-based interpretation service or other interpretation resources that can be easily used by staff members to communicate effectively with limited-English-proficient or deaf persons. A state agency shall include a description of these procedures in its implementation plan submitted to the State Personnel Board pursuant to Section 7299.4 of the Government Code.

(3) “Interpreter” means a person who orally, or by signing, translates from one language to another.

(g) This section is not applicable to a school district, county board of education, community college, the office of a county superintendent of schools, or a community college district.

SEC. 9. Section 26.5 is added to the Welfare and Institutions Code, to read:

26.5. (a) Subject to subdivision (e), a state or local governmental agency, or a public or private agency, organization, entity, or program that receives state funding, shall not use any child, or permit any child to be used, as an interpreter in any hospital, clinic, or physician office in the context of diagnosis ~~and~~ or treatment, and shall have in place, and available for inspection, an established procedure for providing competent interpretation services that does not include the use of children in this manner.

(b) Subject to subdivision (e), a violation of this section by a public, except state, or private agency, organization, entity, or program that is supported by state funding may result in the loss of state funding to, or the cancellation of state contracts with, that agency, organization, entity, or program. However, no action may be taken until 90 days after the date the violation is reported, in order to give that agency, organization, entity, or program the opportunity to comply with this section.

(c) State funding or any contract terminated pursuant to subdivision (b) shall not be reinstated until the state agency providing the state funding has determined that the agency, organization, entity, or program has done both of the following:

1 (1) Prohibited the use of children as interpreters in hospitals,  
2 clinics, and physician offices in the context of diagnosis~~and~~ *or*  
3 treatment.

4 (2) Established procedures to ensure that children will not be  
5 utilized as interpreters in hospitals, clinics, or physician offices in  
6 the context of diagnosis~~and~~ *or* treatment.

7 (d) The State Personnel Board may conduct investigations and  
8 take all reasonable actions to effectuate the purposes of this  
9 section with respect to state agencies.

10 (e) Nothing in this section shall prohibit an agency,  
11 organization, entity, or program from using, or permitting the use  
12 of, a child to interpret in any of the following situations:

13 (1) To help determine a limited-English-proficient person's  
14 primary language.

15 (2) To help ensure the receipt of language assistance.

16 (3) During routine and casual queries, including those  
17 involving office hours or directions, or other matters that do not  
18 involve diagnosis or treatment.

19 (4) During emergency situations affecting the immediate life,  
20 safety, health, or welfare of an individual when there are no other  
21 alternatives immediately available so long as a competent  
22 interpreter is provided as soon as possible.

23 (5) To assist with simple queries concerning the receipt of any  
24 public health benefit.

25 (f) For purposes of this section:

26 (1) "Child" means a person who is under the age of 15 years.

27 (2) "Established procedure for providing competent  
28 interpretation" means the provision of an in-person interpreter or  
29 bilingual staff member, or, at a minimum, a telephonic-based  
30 interpretation service or other interpretation resources that can be  
31 easily used by staff members to communicate effectively with  
32 limited-English-proficient or deaf persons. A state agency shall  
33 include a description of these procedures in its implementation  
34 plan submitted to the State Personnel Board pursuant to Section  
35 7299.4 of the Government Code.

36 (3) "Interpreter" means a person who orally, or by signing,  
37 translates from one language to another.

38 (g) This section is not applicable to a school district, county  
39 board of education, community college, the office of a county  
40 superintendent of schools, or a community college district.

O